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Chairman: Mr. Hachani ..... (Tunisia)

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The meeting was called to order at 3.15, suspended immediately and resumed at 4.15.

Agenda item 110: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/53/L.37, L.57 and L.58)

Draft resolution A/C.3/53/L.37: Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

1. **The Chairman** invited the Committee to take action on draft resolution A/C.3/53/L.37, which had no programme budget implications. He recalled that, when the draft had been introduced, Armenia, Colombia, Costa Rica, Croatia, France, Iceland, the Republic of Moldova, the Russian Federation and Uruguay had joined the list of sponsors.

2. **Ms. Mekhemar** (Egypt), speaking on behalf of her country and the countries listed in document A/53/679, which had been joined by Indonesia and Jordan, said that the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms constituted a great event that had long been awaited by the international community.

3. Although the text of the Declaration represented a compromise solution that had been negotiated for more than 13 years, she nevertheless wished to stress a number of points with a view to ensuring the full implementation of the Declaration.

4. The primary responsibility to promote and protect all human rights and fundamental freedoms lay with States, since only they could adopt legal, legislative and administrative guarantees to ensure that all persons under their jurisdiction were able to enjoy their rights and freedoms.

5. Since the exercise by individuals and groups of their rights and obligations in the field of human rights and fundamental freedoms derived from, *inter alia*, the Charter of the United Nations and the universally recognized international human rights instruments, the interpretation of the Declaration should be in conformity with the Charter and the principles enshrined therein, in particular respect for the sovereignty of States and their territorial integrity and non-interference in their internal affairs; the Universal Declaration of Human Rights, the International Covenants on human rights and other relevant international instruments; and the provisions of domestic law, which was the juridical framework for the implementation and enjoyment of human rights and fundamental freedoms and for all activities aimed at their promotion, protection and effective realization.

6. Any interpretation contrary to those provisions or aiming to create rights and obligations not in conformity with the Charter of the United Nations or universally recognized international human rights instruments, or not provided for by domestic laws, was unacceptable.

7. Lastly, it was essential, in interpreting the Declaration, to take into account the various cultural, religious, economic and social backgrounds of societies.

8. With that interpretation, the Declaration should contribute to a better enjoyment of human rights and fundamental freedoms by individuals and groups.

9. **The Chairman** announced that Turkmenistan had joined the sponsors of the draft resolution.

10. **Mr. Al-Hariri** (Syrian Arab Republic) said that, although his country associated itself with the statement made by the representative of Egypt, he wished to make some comments on the Declaration.

11. The text gave non-governmental organizations not only rights, but also responsibilities, including that of defending human rights and opposing any flagrant violations of those rights, on a non-selective and impartial basis. Such non-governmental organizations should be established and authorized by national law. Throughout the deliberations of the working group that had drafted the text of the Declaration, the Syrian Arab Republic had emphasized that obtaining resources was not a right and that the right in question was limited to the possibility of seeking resources.

12. The Declaration reaffirmed the concepts of national sovereignty, non-interference in the internal affairs of States and non-selectivity, and promised to improve understanding and dialogue among peoples and to promote human rights.

13. **Mr. Fernández Palacios** (Cuba), after noting that the Declaration's adoption in the year of the fiftieth anniversary of the Universal Declaration of Human Rights was an important event, said that he wished to reaffirm some of the points made in the joint interpretative statement contained in document A/53/679.

14. It was unfortunate that only the rights of individuals and groups, and not their responsibilities, were mentioned in the Declaration. In Cuba's view, rights could be exercised only in a social context, and therefore entailed

responsibilities to the community. The implementation of the Declaration must be consistent with, *inter alia*, the guiding principles of international instruments and the Charter of the United Nations. Domestic law was the juridical framework within which human rights and fundamental freedoms must be respected and promoted and within which the activities provided for in the Declaration must be carried out. Respect for diversity, for different types of political, social and economic systems, for regional and national characteristics and for cultural, religious and historical backgrounds was a prerequisite for the Declaration's implementation.

15. For decades, Cuba had had to deal with attempts by other countries to subvert its domestic order. Well-organized propaganda campaigns sought to discredit institutions which had been established democratically by the Cuban people. Recently, terrorist activities had been perpetrated against the country. Small groups based in Cuba benefited from financial resources that came directly or indirectly from federal funds of the United States, as shown by the budget law recently adopted by the United States Congress.

16. Attributing the status of human rights defenders to individuals who acted against their own people in the service of a foreign Power was unacceptable and would never be tolerated by Cuba. That country would oppose any attempt to invoke the Declaration for that purpose.

17. **Mr. Hamida** (Libyan Arab Jamahiriya)* said that he endorsed the statement made by the representative of Egypt concerning the draft resolution and that he wished to make some comments thereon.

18. The text of the Declaration was in no way incompatible with the principles enshrined in the Charter of the United Nations, particularly the principle of non-interference in the internal affairs of third States. That meant that no individual, governmental or non-governmental organization or State could invoke the Declaration or any other document as grounds for interfering in the internal affairs of another country. That was an unacceptable practice, and everyone must observe the principle of non-interference, particularly United Nations bodies. The Libyan Arab Jamahiriya rejected any provision or interpretation of any provision that contradicted the principles of the sovereignty and the sovereign equality of Member States.

19. The rights set forth in article 5 of the Declaration, such as the right to meet and assemble and the right to form non-governmental associations or groups, must be exercised in accordance with national legislation. With regard to the right to communicate with non-governmental organizations, his delegation believed that the organizations referred to were national organizations, not organizations based in other countries. They must, moreover, be legitimate organizations, membership of which did not contravene national legislation.

20. With respect to article 7, the Jamahiriya considered that the right to develop and discuss ideas and principles was first and foremost a collective, rather than an individual exercise. No individual had the right in any way whatsoever to develop principles and impose them on others, or even society as a whole. It was society which established new principles, and each individual had to respect them and adapt to them, even if he did not apply them.

21. With regard to article 9, his delegation believed that every person and organization had the right to benefit from the internal remedies provided for by national legislation. As to the right of recourse to international bodies, it was vital that those bodies should be established pursuant to conventions or agreements which provided expressly for that right and that the country concerned should be a party to those instruments. No State could be obliged to apply an agreement to which it was not a party or provisions which were not set forth in any agreement. That was an established principle of international law and one from which there could be no departure. It was in the light of those considerations that his delegation interpreted article 9.

22. Article 13 was unacceptable. Individuals and organizations should not be entitled to receive resources from abroad, no matter what the source or the justification. That practice would turn individuals and organizations into agents in the pay of States, organizations or individuals seeking to interfere in the internal affairs of third countries. One could not allow just anyone to intervene in the internal affairs of another country simply because he had the resources, no matter what arguments were invoked. That practice would encourage corruption and interference in the political affairs of third countries, as demonstrated by a great number of events which had taken place in certain countries.

23. The provisions of the Declaration must not be interpreted in a manner incompatible with the historical, religious and cultural specificities of particular societies. What was acceptable in one society might not necessarily be so in others and should not be imposed on them.

24. His delegation, having drawn attention to those points, would make no objection to the adoption of the draft resolution.

* This statement has been given full coverage in the summary record in accordance with the decision taken by the Committee during the meeting.

25. **Mr. Al-Sudairy** (Saudi Arabia) said that, while his country did not wish to undermine the consensus on the responsibility of individuals and groups, the promotion and protection of human rights and fundamental freedoms and the humane purpose of the Declaration, it had reservations regarding all provisions which might run counter to Shariah, which was Saudi Arabia's law.

26. *Draft resolution A/C.3/53/L.37 was adopted.*

Draft resolution A/C.3/53/L.57: Enhancement of international cooperation in the field of human rights

27. **The Chairman** said that the draft resolution had no programme budget implications.

28. **Mr. Mofokeng** (South Africa) proposed the following oral revisions to the draft resolution: in the fifth preambular paragraph, the words "with appreciation" following "*taking note*" should be deleted; and paragraph 1 should be deleted, the remaining paragraphs being renumbered accordingly.

29. *Draft resolution A/C.3/53/L.57, as orally revised, was adopted.*

Draft resolution A/C.3/53/L.58: Right to development

30. **The Chairman** invited the Committee to take action on draft resolution A/C.3/53/L.58, which had no programme budget implications.

31. **Mr. Mofokeng** (South Africa), supported by **Mr. Azlan** (Malaysia), requested that action on the draft resolution, which was still the subject of intensive informal consultations, should be deferred.

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/53/L.28, L.29/Rev.1, L.47 and L.63)

Draft resolutions A/C.3/53/L.28 and L.29/Rev.1: Situation of human rights in Rwanda

32. **The Chairman** said he understood that draft resolutions A/C.3/53/L.28 and L.29/Rev.1 had been the subject of intensive negotiations, the delegations having reached a consensus on draft resolution A/C.3/53/L.29/Rev.1 conditional upon the amendment of two paragraphs. If all the delegations agreed, draft resolution A/C.3/53/L.29/Rev.1, as amended, would be submitted as a Chairman's text.

33. **Ms. Newell** (Secretary of the Committee) read out the amendments. Paragraph 3, as amended, should read as follows: "3. *Expresses deep concern* at the continued serious violations of human rights and international humanitarian law in the country, in particular associated with the conflict in the north-west, and also including in regard to conditions of detention and trial process of those accused of genocide and crimes against humanity". Paragraphs 16 and 17 should be deleted and replaced with a new paragraph 16 with the following wording: "16. *Expresses* its appreciation to Governments, the United Nations High Commissioner for Human Rights and non-governmental organizations, which have supported the Government of Rwanda in the area of human rights, and encourages further efforts between the Government of Rwanda and other Governments, the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations in the area of human rights within mutually agreed frameworks of cooperation, taking into account, *inter alia*, the five-point plan of the Government of Rwanda, which includes the following priority areas, as outlined in the Special Representative's report (para. 18): (a) training national human rights monitors; (b) initiating human rights education programmes in formal and informal education; (c) providing the National Human Rights Commission with the necessary financial and technical assistance; (d) initiating a human rights public-awareness campaign using media resources; and (e) establishing a national centre for human rights as an information clearing-house and training centre;". The remaining paragraphs must be renumbered accordingly.

34. **The Chairman** said that the officers of the Committee wished to submit the draft resolution, as amended, as a Chairman's text.

35. *Draft resolution A/C.3/53/L.29/Rev.1, as amended, was adopted.*

36. **Mr. Hynes** (Canada) said that he hoped that the draft resolution would make it possible for the High Commissioner for Human Rights and the Government of Rwanda to resume cooperation under the jointly-negotiated plan mentioned in paragraph 16.

37. **Mr. Kayinamura** (Rwanda) said that he would withdraw draft resolution A/C.3/53/L.28.

38. **Mr. Theuermann** (Austria), speaking on behalf of the European Union, said that the European Union, which was a sponsor of draft resolution A/C.3/53/L.29, had participated in intensive consultations, particularly with the Rwandan delegation, so that a single draft resolution on the situation of human rights in Rwanda could be submitted. He therefore welcomed the consensus which had made it possible to arrive at resolution A/C.3/53/L.29/Rev.1.

39. In a spirit of compromise, the European Union had agreed to a number of major changes proposed by the Rwandan delegation. Those changes had considerably limited the scope of the draft, which no longer fully

conveyed the concerns of the European Union. For example, paragraph 3 of the draft, which mentioned the continued serious violations of human rights and international humanitarian law in the country, should have stated the name of the country where those violations were taking place. The Human Rights Field Operation in Rwanda, which was one aspect of the international community's response to the genocide and civil war, had been politically and financially supported by the European Union, which regretted that despite the efforts of the High Commissioner for Human Rights, it had been impossible for an agreement to be concluded between the Government of Rwanda and the High Commissioner for a renewal of the Operation's mandate. Any further funding from the European Union would be contingent on the conclusion of a new agreement between the High Commissioner and the Government of Rwanda. Furthermore, the European Union had reluctantly agreed to the new wording of paragraph 17 of the draft. While recognizing the importance of the five-point plan, it considered that that was not the only possible framework for cooperation and that any cooperation framework should be determined through mutual agreement by the parties concerned. Lastly, the European Union considered that an independent, functional Commission on Human Rights could play an important role in the promotion and protection of human rights in Rwanda.

Draft resolution A/C.3/53/L.47: Situation of human rights in the Democratic Republic of the Congo

40. **The Chairman** said that the draft resolution had no programme budget implications and that, at the time of its introduction, Portugal had become a sponsor and the Republic of the Congo had withdrawn from the list of sponsors.

41. **Mr. Theuermann** (Austria), speaking on behalf of the European Union, said that the draft resolution, which had been the subject of consultations with the delegation of the Democratic Republic of the Congo, was future-oriented and made a practical contribution to the search for a solution to the crisis. Its adoption by consensus would be the best way of improving the situation of human rights in the Democratic Republic of the Congo and would serve as a sign of the firm commitment of the Government of that country and the international community to finding solutions.

42. While considerable progress had been achieved and various amendments made during the negotiations, some issues remained problematic. The delegation of the Democratic Republic of the Congo, like the European Union and the other sponsors, was prepared to continue negotiations which might make it possible for the draft resolution to be adopted without a vote. The European Union therefore considered it preferable not to take a decision on the text at present.

Draft resolution A/C.3/53/L.63: The question of human rights in Afghanistan

43. **The Chairman** said that the draft resolution had no programme budget implications and that he had submitted it on the basis of informal consultations.

44. **Mr. Busacca** (Italy) said that the word "new" should be deleted from paragraph 3 of the draft.

45. **Mr. Bhatti** (Pakistan) said that his delegation considered that the situation of human rights in Afghanistan, which was a source of concern to the international community, would improve with the return of peace. The United Nations and the Organization of the Islamic Conference were playing a key role in the efforts to bring lasting peace to the country. If that goal was to be achieved, there must also be an end to outside interference and provocation along the country's borders. In order to strengthen its role of impartial mediator, the United Nations should follow the Organization of the Islamic Conference in adopting the vacant seat formula.

46. The results of the visit by the United Nations Secretary-General's Special Representative for Afghanistan were encouraging. The Kabul authorities had agreed to the establishment of a fact-finding mission responsible for shedding light on the massacre of Iranians at Mazar-I-Sharif a crime for which they had disclaimed responsibility. The presence of United Nations bodies would make it possible to prevent a repetition of such incidents.

47. He noted that in paragraph 1 of the draft resolution, the General Assembly took note with appreciation of the report of the Special Rapporteur on the situation of human rights in Afghanistan (A/53/539), despite the fact that the Special Rapporteur had been unable to travel to Afghanistan and Pakistan, as stated in paragraph 3 of that report, which was based solely on allegations and counter-allegations. The Special Rapporteur had nonetheless felt able to draw conclusions and to convey his indignation. The delegation of Pakistan could not associate itself with a report which had no basis in fact and, for that reason, it also declined to support the draft resolution.

48. *Draft resolution A/C.3/53/L.63 was adopted.*

49. **Mr. Ghalib** (Afghanistan) said that his delegation objected to the attitude of the delegation of Pakistan, which was speaking on behalf of the Taliban.

50. His delegation considered the Special Rapporteur to be a highly credible source and to have accurately described the situation of human rights in Afghanistan. Furthermore, at the time when the Special Rapporteur was to have visited Afghanistan, the security situation in the territories under Taliban control had been extremely volatile. For example, a military adviser to the Head of the United Nations Special Mission to Afghanistan had been callously slain by two Taliban mercenaries. Therefore, the Taliban could not provide the guarantees which would have allowed the Special Rapporteur to visit the country under adequate security conditions. Lastly, in addition to the report of the Special Rapporteur, numerous other reports from bodies such as Human Rights Watch, eyewitnesses and the international press had revealed that the Taliban had massacred over 8,000 civilians in the north of the country. All of those facts corroborated the content of the Special Rapporteur's report, which showed that the Taliban were responsible for a campaign of crimes against humanity in the north of Afghanistan.

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) (A/C.3/53/L.65)

Draft resolution A/C.3/53/L.65: Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

51. **The Chairman** said that the draft resolution had no programme budget implications and that he had submitted it on the basis of informal consultations.

52. *Draft resolution A/C.3/53/L.65 was adopted.*

(e) Report of the United Nations High Commissioner for Human Rights (*continued*)

Draft resolution A/C.3/53/L.45: Question of resources for the Office of the United Nations High Commissioner for Human Rights and the human rights activities of the United Nations

53. **The Chairman**, recalling that Bahamas, Beigium, Benin, Burundi, Cameroon, Croatia, Cyprus, Denmark, Fiji, France, Germany, Greece, Guinea-Bissau, Iceland, Italy, Liechtenstein, Luxembourg, Madagascar, Malawi, the Netherlands, Portugal, Romania, Saint Lucia, Senegal, Slovenia, Swaziland, Sweden, Trinidad and Tobago, Ukraine and the United Kingdom had become sponsors of the draft resolution at the time of its introduction, announced that Azerbaijan, Belize, Bolivia, Bulgaria, Mongolia, Morocco, Poland, the Republic of Moldova, Tunisia, Turkmenistan, Uganda, Venezuela and Zambia had also become sponsors.

54. **Ms. Newell** (Secretary of the Committee) read out a statement on the programme budget implications of the draft resolution. The attention of the Committee was drawn to the provisions of General Assembly resolution 45/248, Part B, Section VI, in which the Assembly had reaffirmed that the Fifth Committee was the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters; reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions; expressed its concern at the tendency of its substantive Committees and other intergovernmental bodies to involve themselves in administrative and budgetary matters; and invited the Secretary-General to provide all intergovernmental bodies with the required information regarding procedures for administrative and budgetary matters. Further, the question of allocating resources in the programme budget for the biennium 2000–2001 needed to be seen in the context of the proposed programme budget outline, contained in document A/53/220. The Fifth Committee would shortly adopt recommendations in that regard bearing in mind the priorities already adopted by the General Assembly.

55. **The Chairman** recalled the letter that the Chairman of the Fifth Committee had addressed to the President of the General Assembly on the same matter.

56. **Mr. Mofokeng** (South Africa) said that some revisions had been made to the text of the draft resolution. At the end of paragraph 1, after the words "for the biennium 2000–2001", the phrase "without diverting resources from the United Nations development programmes and activities" should be added. Paragraph 2 should be deleted and the remaining paragraph should be renumbered accordingly. Argentina, the Russian Federation and the United States of America had become sponsors of the draft resolution.

57. **Mr. Bhatti** (Pakistan) asked whether, from a technical standpoint, statements on programme budget implications imposed restrictions on the Main Committees and meant that the Committees could not take action on the draft resolutions in question. He wondered what the status of such resolutions would be if the Committees adopted them by consensus.

58. **The Chairman**, responding to the representative of Pakistan, said that the purpose of such statements was to remind the Committees of the procedures established by the General Assembly. With respect to the case under consideration, the reminder had been effective since the South African delegation had revised the text of the draft resolution in order to address the concerns of the Fifth Committee.

59. **Ms. Mesdoua** (Algeria), said that her country was fully committed to the promotion and protection of human rights and therefore to increasing the resources available to the United Nations High Commissioner for Human Rights. However, the draft resolution should have been submitted in accordance with established United Nations procedures, in particular rule 153 of the rules of procedure of the General Assembly and General Assembly resolution 45/248, Part B Section VI, according to which the Fifth Committee was the body with jurisdiction over budgetary matters. Moreover, the draft resolution was a duplication of decision 1998/83 of the Commission on Human Rights and paragraph 11 of the agreed conclusions adopted by the Economic and Social Council (1998/1). Her delegation was not at all opposed to allocating additional resources to the High Commissioner provided that it was not done at the expense of development programmes and activities.

60. *Draft resolution A/C.3/53/L.45, as orally revised, was adopted.*

61. **Mr. Ball** (New Zealand), supported by **Mr. Hynes** (Canada) and **Mr. Huser** (United States of America), said that, in the case in question, as the letter from the President of the General Assembly dated 18 November 1998 clearly showed, there was no conflict of jurisdiction between the Third Committee and the Fifth Committee. The delegations sitting on the Third Committee had the sovereign right to draw the Secretary-General's attention to the need to make provision for additional resources to finance new or ongoing activities in their field of competence. With respect to the case under consideration, they therefore had every right to request the Secretary-General to recommend that the General Assembly should take into account resource requirements relating to the implementation of resolution 1998/83 of the Commission on Human Rights of 24 April 1998 and decision 1998/275 of the Economic and Social Council of 30 July 1998, in the context of the consideration of the proposed programme budget for the biennium 2000–2001. Thus, although under rule 153 of the rules of procedure of the General Assembly no resolution involving expenditure could be adopted by a Committee unless it was accompanied by an estimate of expenditures prepared by the Secretary-General and had been considered by the Fifth Committee, it did not state that the Main Committees of the General Assembly could not adopt resolutions drawing the Secretary-General's attention to resource requirements in their areas of competence. Moreover, while the Fifth Committee was the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters, it did not have the jurisdiction to take action on the merits of draft resolution A/C.3/53/L.45, which concerned human rights, an issue which fell within the Third Committee's purview.

62. **Mr. Goledzinowski** (Australia) endorsed that statement. Draft resolution A/C.3/53/L.45 had much in common with similar draft resolutions adopted by the Committee at the current session, such as draft resolution A/C.3/53/L.24 concerning the Third Decade to Combat Racism and Racial Discrimination. Moreover, he urged the delegations that had joined the consensus on the draft resolution to continue to support it in other bodies, especially in the Fifth Committee.

63. **Mr. Ndiaye** (Senegal) said that he fully endorsed those statements especially since the right to development was one of the rights which the United Nations High Commissioner for Human Rights had a duty to promote by encouraging the development of technical cooperation and providing assistance to developing countries in the field of human rights. To the extent that all countries had requested that additional or adequate resources should be made available to the Office of the High Commissioner for that purpose — which was the reason why his delegation was among the sponsors — the Third Committee could not be accused of overstepping its mandate by adopting the draft resolution.

64. **Mr. Fernández Palacios** (Cuba) said that he rejected the case made with respect to a conflict of jurisdiction between the Third and Fifth Committees in respect of draft resolution A/C.3/53/L.45. He agreed with the Algerian representative that the rules of procedure of the General Assembly and the Financial Regulations and Rules of the United Nations should be strictly observed, notwithstanding the claim that the draft resolution on the Third Decade to Combat Racism and Racial Discrimination followed the same procedure. In his delegation's view, draft resolution A/C.3/53/L.45 related to a purely administrative and budgetary issue.

The meeting rose at 5.35 p.m.